



**HIPAA  
TRANSACTIONS & CODE SETS  
REGULATIONS  
EXTRACT OF PREEMPTION  
REFERENCES**

**45 CFR Parts 160 and 162**

**Health Insurance Reform: Standards for  
Electronic Transactions; Announcement of  
Designated Standard Maintenance  
Organizations; Final Rule and Notice  
(65 Fed.Reg. 50312 *et seq.* (Aug. 17, 2000))**

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## **EXPLANATION**

The following document is a tool designed to assist HIPAA-covered entities and persons in analyzing provisions of State law for preemption by the Health Insurance Portability and Accountability Act (HIPAA). The document is an extract of all references to HIPAA preemption of State law set forth in the Health Insurance Reform: Standards for Electronic Transactions; Announcement of Designated Standard Maintenance Organizations; Final Rule (65 Fed.Reg. 50312, et seq. (Aug. 17, 2000)). [NOTE: There are no preemption references in any of the other versions of the Transactions and Codes Sets regulations.]

Please forward any comments, corrections, etc. to the attention of:

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**HIPAA Transactions and Code Sets Regulations**  
**Extract of Preemption References**  
**(65 Fed.Reg. 50312, et seq. (Aug. 17, 2000))**

**III. Analysis of, and Responses to, Public Comments on the Proposed Rule**

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*Comments and Responses on the Applicability of the Regulations*

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8. Exceptions for State Law (Section 1178)

*Proposal Summary:* The proposed rule did not propose preemption requirements in the regulation text and did not directly request comments on the preemption issue. However, it did set forth a summary of the preemption provision of the Act, section 1178, and, therefore, raised the issue for public comment (63 FR 25274). In response, we received a number of comments regarding the preemption issue, and requesting guidance on how preemption questions will be resolved.

*Comment:* Many commenters recommended the exception for State law process be delineated or clarified in the final rule. Many commenters stated that exceptions in general should not be granted, saying that this is contrary to the idea of national standards. Other commenters stated exceptions should be discouraged.

*Response:* The statute clearly states that the Secretary may grant exceptions in certain circumstances. The proposed rule regarding Standards for Privacy for Individually Identifiable Health Information, published in the Federal Register on November 3, 1999 (64 FR 59967), specifically raised the preemption issue. Comments received in response to that proposed rule are being analyzed. We will issue conforming amendments to Part 160 Subpart B when the preemption issues have been resolved in the context of the Standards for Privacy for Individually Identifiable Health Information final rule. [50319 Federal Register / Vol. 65, No. 160 / Thursday, August 17, 2000 / Rules and Regulations]